

CHAPTER 14 LEVEE RECONSTRUCTION AND REPAIR PROGRAM

PART 1

27—14.1 to 14.9 Reserved.

27—14.10(161A) Authority and scope. This chapter establishes procedures and standards to be followed by the division of soil conservation, Iowa department of agriculture and land stewardship, in accordance with the policies of the state soil conservation committee in implementing a levee reconstruction and repair program created in 1994 Iowa Acts, chapter 1199, section 32. These rules establish a levee reconstruction and repair program, provide for the allocation of cost-share moneys as financial incentives to eligible persons applying to participate in the program, and establish standards and guidelines to which the soil and water conservation districts shall conform in fulfilling their responsibilities under the program.

27—14.11(161A) Rules are severable. If any provision of a rule or subrule or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the rule or subrule which can be given effect without invalid provision or application, and to this end the provisions of these rules or subrules are severable.

27—14.12 to 14.19 Reserved.

PART 2

27—14.20(161A) Definition of terms. In addition to the terms defined herein, definitions in 27—10.20(161A) shall apply.

“*Actively engaged in farming*” means a person who:

1. Inspects the production activities periodically and furnishes at least half of the value of the tools and pays at least half the direct cost of production; or
2. Regularly and frequently makes or takes an important part in making management decisions substantially contributing to or affecting the success of the farm operation; or
3. Performs physical work which significantly contributes to crop or livestock production.

“*Family farm corporation*” means a corporation:

1. Founded for the purpose of farming and the ownership of agricultural land in which the majority of the voting stock is held by and the majority of the stockholders are persons related to each other as spouse, parent, grandparent, lineal ascendants of grandparents or their spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related; and
2. All of its stockholders are natural persons or persons acting in a fiduciary capacity for the benefit of natural persons or family trusts as defined in Iowa Code section 9H.1(10); and
3. Sixty percent of the gross revenues of the corporation over the last consecutive three-year period comes from farming.

“*Family farm limited liability company*” means a limited liability company which meets all of the following conditions:

1. The limited liability company is founded for the purpose of farming and ownership of agricultural land in which the majority of the members are persons related to each other as spouse, parent, grandparent, lineal ascendants of grandparents or their spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related.
2. All of the members of the limited liability company are natural persons or persons acting in a fiduciary capacity for the benefit of natural persons or family trusts.

3. Sixty percent of the gross revenues of the limited liability company over the last consecutive three-year period comes from farming.

“Family farm limited partnership” means a limited partnership which meets all of the following conditions:

1. The limited partnership is formed for the purpose of farming and the ownership of agricultural land in which the general partner and a majority of the partnership interest is held by and the majority of limited partners are persons related to each other as spouse, parent, grandparent, lineal ascendants of grandparents or their spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related.

2. The general partner manages and supervises the day-to-day farming operation on the agricultural land.

3. All limited partners are natural persons or persons acting in a fiduciary capacity for the benefit of natural persons or family trusts.

4. Sixty percent of the gross revenues of the partnership over the last consecutive three-year period comes from farming.

“Family trust” means a trust:

1. In which a majority interest in the trust is held by and the majority of the beneficiaries are persons related to each other as spouse, parent, grandparent, lineal ascendants of grandparents or their spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related; and

2. In which all the beneficiaries are natural persons, who are not acting as a trustee or in a similar capacity for a trust, as defined in Iowa Code section 9H.1(10), or persons acting in a fiduciary capacity, or nonprofit corporations; and

3. If the trust is established on or after July 1, 1988, the trust must be established for the purpose of farming and 60 percent of the gross revenues of the trust over the last consecutive three-year period must come from farming.

“Levee” or *“dike”* means an earthen embankment constructed to reduce damage to agricultural land and associated buildings and residences.

27—14.21 to 14.29 Reserved.

PART 3

27—14.30(161A) Compliance, refund, reviews and appeals. The 20-year maintenance agreement addressed on the IP-1, “Application for Financial Incentives” form, does not apply to this program.

27—14.31 to 14.39 Reserved.

PART 4

27—14.40(161A) Appropriations. Levee reconstruction and repair funds are appropriated to the division of soil conservation of the department of agriculture and land stewardship for the fiscal year beginning July 1, 1993, and ending June 30, 1994. Moneys which are unencumbered or unobligated on June 30, 1994, shall not revert but will be available during subsequent fiscal years. Moneys which are still unencumbered or unobligated on June 30, 1996, shall be credited to the conservation practices revolving loan fund created pursuant to Iowa Code section 161A.71.

27—14.41 to 14.49 Reserved.

PART 5

27—14.50(161A) Allocations to soil and water conservation districts.

14.50(1) *Allocation of funds.* Funds will be allocated by the division to specific projects of landowners submitted by soil and water conservation districts. Applications meeting all program and procedural requirements will be funded on a first-come, first-served basis by the division.

14.50(2) *Recall of funds.* Landowners have one year to complete the project from the date of approval by the division. If the project has not been started by that date, funds will be recalled by the division.

14.50(3) *Reserve funds.* The division shall administer a reserve fund for the program consisting of 2 percent of the appropriated funds. The reserve fund will be set aside and used only to fund contingencies that occur in the districts or within the division. The division may phase out the reserve fund by allocation to applicants after December 31, 1995.

27—14.51 to 14.59 Reserved.

PART 6

27—14.60(161A) Applications and agreements. The purpose of this part is to identify and define procedures to be followed in applying for and entering agreements for receiving levee reconstruction and repair program funds.

27—14.61(161A) Applications submitted to soil and water conservation district. Landowners or farm operators seeking levee reconstruction and repair program funds shall complete necessary applications as specified in this part. Application and agreement forms referenced in this chapter are those described in rule 27—10.95(161A). All application forms and agreements for levee reconstruction and repair program funds are available from and shall be submitted to the district office located in the county where such practices are proposed. If an applicant's land is in more than one district, the respective district commissioners will review the application and agree to obligate all funds from one district or prorate the funding between districts.

27—14.62(161A) Application sign-up.

14.62(1) *Signatures by landowner(s) and qualified farm operator(s).* All applications and agreements shall be signed by the landowner. For a farm operator to qualify for payment, both landowner and farm operator must sign the application.

14.62(2) *Land being bought under contract.* All applications and agreements concerning land being purchased under contract shall be signed by both the contract seller and the contract buyer. If the farm operator is applying, the contract buyer, the contract seller, and the farm operator must sign.

14.62(3) *Power of attorney.* Applications and agreements may be signed by any person designated to represent the landowner or farm operator, provided the appropriate power of attorney has been filed with the district office. The power of attorney requirement can be met by submitting a completed Power of Attorney, Form SCD-2, or other properly notarized full power of attorney statement to the district office. In the case of estates and trusts, court documents designating the responsible person or administrator may be submitted to the district in lieu of the power of attorney.

27—14.63(161A) Eligibility for financial incentives.

14.63(1) *District cooperator.* Financial incentives will not be available for land not covered under a cooperator agreement. Application for district cooperator shall be made by submitting a completed Cooperator Agreement, Form SCD-1, to the district office. The district shall approve or deny the application and notify the applicant of the action within 60 days of receipt of the completed cooperator agreement.

14.63(2) Ineligible lands or persons.

a. Levee reconstruction and repair program funds shall not be used to reimburse other units of government for implementing levee reconstruction and repair practices.

b. A person is not eligible to participate unless actively engaged in farming or is an individual family farm, a family farm corporation, family farm limited partnership, family farm trust, or family farm limited liability company.

c. Levee reconstruction and repair funds shall not be used to support a project if other state or federal moneys have been contributed to support the project.

27—14.64 to 14.69 Reserved.

PART 7

27—14.70(161A) General conditions, eligible practices, specifications and cost-share rates. The purpose of this part is to establish the general conditions, eligible practices, specifications, and cost-share rates for the levee reconstruction and repair program authorized in 1994 Iowa Acts, chapter 1199, section 32.

27—14.71(161A) General conditions. The following general conditions shall be met:

14.71(1) Technician certification. The designated levee reconstruction or repair practice shall not be funded unless the technician has inspected the site and has determined that the practice is needed and meets program and procedural requirements.

14.71(2) Limitation for funding. Cost-share funds shall only be used to support a project which restores a levee to its condition prior to the flood damage which occurred in 1993.

27—14.72(161A) Eligible practices. Practices listed in this rule are eligible for levee reconstruction and repair.

14.72(1) Dike or levee. An earthen embankment constructed to reduce damage to agricultural land and associated buildings and residences. Cost-sharing under this practice is authorized only for the repair or reconstruction of a dike or levee damaged by the 1993 flood.

14.72(2) Reserved.

27—14.73(161A) Standards and construction specifications.

14.73(1) The standards and construction specifications listed in these rules and general conditions shall be met in all cases. The USDA-Soil Conservation Service standards and construction specifications listed in this rule shall be used. To the extent of any inconsistency between the general conditions and the standards and construction specifications, the general conditions shall control.

14.73(2) Dike. USDA-SCS-IOWA, Iowa Field Office Technical Guide, Section IV, Code No. 356, June 3, 1983.

27—14.74(161A) Cost-share rates. The following cost-share rates shall apply for the eligible practices designated in rule 27—14.72(161A). The use of state cost-share funds in combination with other public funds is not allowed. The cost-share rate for the practices shall be 40 percent of the actual cost or estimated cost of repair or reconstruction, whichever is less.

27—14.75 to 14.79 Reserved.

PART 8

27—14.80(161A) Reporting and accounting. Reports will be prepared in the same manner as provided in rule 27—10.91(161A,312).

These rules are intended to implement Iowa Code chapter 161A and 1994 Iowa Acts, chapter 1199, section 32.

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